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15 EQUALIA, LLC and HOVERBOARD
16 TECHNOLOGIES CORPORATION

17 UNITED STATES DISTRICT COURT

18 DISTRICT OF NEVADA

19 EQUALIA, LLC, a California limited
20 liability company, and HOVERBOARD
21 TECHNOLOGIES CORPORATION, a
22 California corporation,

23 Plaintiffs,

24 v.

25 KUSHGO LLC dba HALO BOARD, a
26 California limited liability company;
27 HALO BOARD LLC, an Oregon limited
28 liability company; ARTHUR
ANDREASYAN, an individual; and
SHENZHEN WINDGOO INTELLIGENT
TECHNOLOGY CO. LTD., a foreign
company,

Defendants.

CASE NO. 2:16-cv-02851-RFB-CWH

[PROPOSED]

**STIPULATED ELECTRONICALLY
STORED INFORMATION PRODUCTION
ORDER**

Plaintiffs EQUALIA, LLC and HOVERBOARD TECHNOLOGIES CORPORATION, and Defendants KUSHGO LLC dba HALO BOARD and ARTHUR ANDREASYAN, through their undersigned counsel, hereby stipulate and agree, subject to Court approval, to the following terms governing discovery of electronically stored information (“ESI”) in this case:

1 **1. PURPOSE**

2 This Stipulated Order will govern discovery of ESI in this case as a supplement to the
3 Federal Rules of Civil Procedure, this Court's LR 1-1, and any other applicable orders and rules.
4 The parties desire to control and focus the production of ESI to the needs of the case to promote a
5 "just, speedy, and inexpensive determination" of this action, as required by Fed. R. Civ. Proc. 1.

6 Absent a showing of good cause, general ESI production requests under Federal Rules of
7 Civil Procedure 34 and 45, or compliance with a mandatory disclosure requirement of this Court,
8 shall not include all metadata. However, fields showing the date and time that the document was
9 sent and received, as well as the complete distribution list, shall generally be included in the
10 production if such fields exist.

11 **2. COOPERATION**

12 The parties are aware of the importance the Court places on cooperation and commit to
13 cooperate in good faith throughout the matter. A party's meaningful compliance with this
14 stipulation and efforts to promote efficiency and reduce costs will be considered in cost-shifting
15 determinations.

16 **3. PRESERVATION**

17 The parties have discussed their preservation obligations and needs, and agree that
18 preservation of potentially relevant ESI will be reasonable and proportionate. To reduce the costs
19 and burdens of preservation and to ensure proper ESI is preserved, the parties agree that:

20 a) The parties have agreed to exchange a list of the types of ESI they believe should
21 be preserved and the custodians, or general job titles or descriptions of custodians, for whom they
22 believe ESI should be preserved, e.g., "HR head," "expert," and "marketing manager." The
23 parties shall add or remove custodians as reasonably necessary; and

24 b) The parties have agreed that the number of custodians per party for whom ESI will
25 be preserved will be five per party.

26 **4. SEARCH TERMS**

27 The parties agree that in responding to an initial Fed. R. Civ. P. 34 request, or earlier if
28 appropriate, they will meet and confer about appropriate search terms to search ESI in order to

1 identify ESI that is subject to production in discovery and filter out ESI that is not subject to
2 discovery.

3 **5. PRODUCTION FORMATS**

4 The parties agree pursuant to Fed. R. Civ. P. 34 (b)(2)(E)(i) that the presumption is that
5 data will be produced in native format (i.e., the same form it is used or kept in the normal course
6 of business), and pursuant to Fed. R. Civ. P. 1 to use commercially reasonable efforts to produce
7 the information electronically consistent with Fed. R. Civ. P. 1. The parties further agree that
8 emails, spreadsheets, videos, animations, audio files, and presentations that include video,
9 animation, or audio shall be produced where practical in native format. To the extent that
10 documents produced in native format cannot be rendered or viewed without the use of proprietary
11 software, the parties shall meet and confer to minimize any expense or burden associated with the
12 review of such documents, including issues as may arise with respect to obtaining access to any
13 such software or operating manuals.

14 ESI not produced in native format and amenable to being imaged will be produced as
15 images on optical disks (i.e., CDs or DVDs) or external hard drives accompanied by load files.
16 Each image will bear a unique production number and any applicable confidentiality language
17 pursuant to the Protective Order used in this litigation. ESI produced in this manner will be
18 accompanied by load files with searchable text (including electronically extracted text or, if
19 electronically extracted text is unavailable, OCR text) and shall include:

- 20 • Unitization (including the production number of the first and last page of each file);
21 • Attachments (including information sufficient to identify the parent and child
22 relationships of all documents and ESI that are or have attachments);
23 • Confidentiality (including any designation pursuant to the Protective Order);
24 • Source information (the identity of the custodian, or, if none, a generalized location);
25 and
26 • System metadata will be maintained and provided with the native files. The following
27 information will not be removed or scrubbed from the produced files: including
28 author, file size, file type, date created, date modified, title, sender (“from”), primary

1 recipient ("to"), courtesy copy ("cc"), blind courtesy copy ("bcc"), subject, sent
2 time/date, received time/date, last modification time, and read status.

3 Paper documents amenable to being imaged will be produced as images on optical disks
4 (i.e., CDs or DVDs) or external hard drives accompanied by load files. Paper documents may be
5 produced in black-and-white or color, but if a producing party intends to rely in any brief or
6 hearing on an aspect of a document that requires review in color, the party shall produce that
7 document in color. Each image will bear a unique production number and any applicable
8 confidentiality language pursuant to the Protective Order used in this litigation. Paper documents
9 produced in this manner will be accompanied by load files with searchable text. If a party desires
10 additional information about a particular paper document produced in this form the parties will
11 meet and confer regarding the appropriate means to supply the additional information.

12 If a party identifies responsive documents or information in a form that cannot reasonably
13 be produced in its native format or imaged, that party shall inform the requesting party of the
14 existence of such records. The parties shall then meet and confer regarding the appropriate means
15 for producing or permitting inspection of such records.

16 If a party learns of responsive documents or information that are not reasonably
17 accessible, or if a party learns facts that cause the party to suspect that responsive documents or
18 information are present in a location or form that is not reasonably accessible, that party shall
19 inform the requesting party of the existence of such records or of the reasons for its suspicions
20 that such records may exist. The parties shall then meet and confer regarding the appropriateness
21 of producing or permitting inspection of such records, and of any appropriate cost sharing. The
22 parties agree not to degrade the searchability of documents as part of the document production
23 process.

24 **6. DOCUMENTS PROTECTED FROM DISCOVERY**

25 Pursuant to Fed. R. Evid. 502(d), the production of a privileged or work-product-protected
26 document, whether inadvertent or otherwise, is not a waiver of privilege or protection from
27 discovery in this case or in any other federal or state proceeding. For example, the mere
28 production of privileged or work-product-protected documents in this case as part of a mass

1 production is not itself a waiver in this case or in any other federal or state proceeding. The
2 parties agree that privileged and/or work-product-protected communication to or from trial
3 counsel post-dating the filing of the Complaint need not be placed on a privilege log.

4 **7. MODIFICATION**

5 This Stipulated Order may be modified by a Stipulated Request of the parties, subject to
6 Court approval, or by the Court for good cause shown.

7 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

8
9 Dated: February 9, 2017

10 ROPERS, MAJESKI, KOHN & BENTLEY

11 By: /s/ Lael D. Andara

12 STEPHEN J. ERIGERO
13 TIMOTHY J. LEPORE
14 LAEL D. ANDARA
15 MARIE E. SOBIESKI
16 Attorneys for Plaintiffs
17 EQUALIA, LLC and HOVERBOARD
18 TECHNOLOGIES CORPORATION

19 Dated: February 9, 2017

20 By: /s/ Steven Rinehart

21 STEVEN RINEHART
22 PHILLIP RINEHART
23 Attorneys for Defendants
24 KUSHGO LLC, ARTHUR
25 ANDREASYAN, and
26 HALO BOARD LLC

1 **[PROPOSED] ORDER**

2 **PURSUANT TO STIPULATION, IT IS SO ORDERED:**

3 The Parties' Stipulated Request for an Order Governing Discovery of Electronically
4 Stored Information is adopted.

5
6 Dated: February 13, 2017



RICHARD F. BOUWLARE, II
United States District Judge